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7 UNITED STATES DISTRICT COURT FOR THE
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 IN THE MATTER OF:

11 THE SEIZURE OF \$19,000 IN UNITED
12 STATES CURRENCY BY THE UNITED
13 STATES POSTAL INSPECTION
14 SERVICE

10 CASE NO. 2:21-mc-00090 RSL

11 **STIPULATION AND REQUEST
12 TO THE COURT TO EXTEND
13 GOVERNING CAFRA
14 DEADLINE PURSUANT TO
15 18 U.S.C. § 983(a)(3)(A)**

16 NOTED FOR CONSIDERATION:

17 August 3, 2021

21 **I. RELIEF REQUESTED**

22 The United States and Claimant Lee Phan (“Claimant”; collectively, with the United
23 States, the “Parties”), individually and by and through their respective undersigned counsel,
24 submit the following stipulation and request for the Court to extend the governing Civil
25 Asset Forfeiture Reform Act (“CAFRA”) deadline for the claim Claimant filed to \$19,000 in
26 United States currency (the “Currency”) that was seized by the United States Postal
27 Inspection Service (“USPIS”). Pursuant to CAFRA, a Court “in the district in which the
28 [forfeiture] complaint will be filed” is permitted to “extend the period for filing a complaint

1 for good cause shown or **upon agreement of the parties.**" 18 U.S.C. § 983(a)(3)(A)
 2 (emphasis added); *see also Carvajal v. United States*, 521 F.3d 1242, 1244 (9th Cir. 2008)
 3 (recognizing that Section 983(a)(3)(A) allows requests to the Court to extend the statutory
 4 90-day CAFRA deadline); *Omidi v. United States*, 851 F.3d 859, 860 (9th Cir. 2017) ("Upon
 5 receiving a claim, the government must file a civil or criminal forfeiture action within 90
 6 days, unless a court extends the deadline [pursuant to Section 983(a)(3)(A)]."). Here, the
 7 Parties have agreed to extend the deadline for taking judicial forfeiture action against the
 8 Currency for an additional period of 60 days: from August 4, 2021, **to October 4, 2021**. The
 9 Parties respectfully request that the Court order this extension. A proposed Order is
 10 submitted together with this stipulation and request.

II. RELEVANT PROCEDURAL FACTS

12 USPIS seized the Currency from United States Postal Service Priority Express Mail
 13 Parcel #EJ645493664US (the "Parcel") on February 26, 2021, in Seattle, Washington. The
 14 Honorable Brian A. Tsuchida, United States Magistrate Judge, issued a search and seizure
 15 warrant in the United States District Court for the Western District of Washington, Case No.
 16 MJ21-113 (the "Warrant"). The Warrant concluded that the evidence provided to the Court
 17 established "probable cause to search and seize the [Parcel], and that such search [would]
 18 reveal . . . evidence, instrumentalities, or fruits of violations of Title 21, United States Code,
 19 Section(s) 841(a)(1) and 843(b)" including, among other items, "[m]onetary instruments,
 20 including but not limited to . . . currency . . .".

21 After seizing the Currency, USPIS initiated administrative forfeiture proceedings
 22 against it, on the grounds it represents proceeds of the distribution of controlled substances
 23 or moneys furnished for the purchase of controlled substances, which would be forfeitable
 24 pursuant to 21 U.S.C. §§ 853 & 881. As required by 18 U.S.C. § 983(a)(1)(A)(i), USPIS sent
 25 written notice of its intent to forfeit this Currency to interested parties. In response, Claimant
 26 submitted an administrative claim to the Currency (the "Claim"). USPIS received the Claim
 27 on May 6, 2021. No other administrative claims were filed, and the period for doing so has
 28 expired pursuant to 18 U.S.C. § 983(a)(2)(B).

The Claim was referred to the United States Attorney's Office for the Western District of Washington for adjudication in judicial forfeiture proceedings. Pursuant to 18 U.S.C. § 983(a)(3)(A)–(C), the United States is required to allege forfeiture of the Currency in a criminal indictment or file a civil forfeiture case against it within 90 days from the date it received the Claim. That deadline is currently August 4, 2021.

The Parties are actively discussing the strength of the Claim and, to that end, have exchanged some discrete prefilings discovery. To preserve the Parties' ability to explore the possibility of a prefilings settlement, the Parties have entered the following stipulation to extend the governing CAFRA deadline pursuant to 18 U.S.C. § 983(a)(3)(A).

III. STIPULATION

The United States and the Claimants HEREBY STIPULATE:

1. To preserve the Parties' ability to explore the possibility of a pretrial settlement, the Parties agree, pursuant to 18 U.S.C. § 983(a)(3)(A), to extend the CAFRA deadline for the United States to allege forfeiture of the Currency in a criminal indictment, or to file a civil forfeiture complaint against it, for an additional period of 60 days: from August 4, 2021, **to October 4, 2021**. The Parties further agree to request that the Court enter the proposed Order extending the CAFRA deadline in such manner.

2. Consistent with the agreement in Paragraph 1, Claimant knowingly, intelligently, and voluntarily waives any right he may have to require the United States to allege forfeiture of the Currency in a criminal indictment, or to file a civil forfeiture complaint against it, within the first 90 days after the United States received his administrative claim, including but not limited to any such right he may have pursuant to 18 U.S.C. § 983(a)(3)(A)–(C). Claimant also waives any right to seek dismissal, on that basis, of any criminal forfeiture allegation or civil forfeiture complaint that is ultimately filed by the United States against this Currency such that, pursuant to this agreement, any criminal forfeiture allegation or civil forfeiture complaint filed on or before October 4, 2021, will be treated as timely filed.

3. The Parties agree the Currency will remain in the custody of the United States pending its adjudication in any criminal or civil forfeiture proceeding the United States files against it or—to the extent the United States does not ultimately pursue the forfeiture of some or all of this Currency—until October 4, 2021. Claimant agrees he will not seek return of any of the Currency, by any manner or for any reason, before that date.

4. The Parties agree each will bear its own costs and attorneys' fees associated with this agreement.

Respectfully submitted,

TESSA GORMAN
Acting United States Attorney

DATED: 08/03/2021


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